

THE PEOPLE OF THE PHILIPPINES/PLAINTIFF AND APPELLEE, VS. ILDEFONSO PALO ALIAS PONCIANO-PONCHING, AND PEDRO, PALO, DEFENDANTS! AND APPELLANTS.*G. R. Nos. L-9593-94. July 31, 1957*

Ponente: BENGZON, J.

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These are two criminal cases coining up from Batangas (Nos. 1061 and 1062). In the first, Ildefonso Palo and his brother Pedro were accused of murdering: Candido Catapang, their own brother-in-law. In the second, Ildefonso was charged with illegal possession of the gun with which the victim had been shot. After a joint trial, the defendants were found guilty as charged. Wherefore the Court sentenced each of them, in the first case, to life imprisonment with accessories, and to indemnify the heirs in the sum of P6,000, with costs; and in the second, Ildefonso was given one year and one day to two years and one day of imprisonment, plus costs. The firearm and the ammunition were confiscated.

In the afternoon of June 20, 1954 Candido Catapang went to the river of barrio Apakay, Taal, Batangas, to get some water. There he met and talked with his brother-in-law Juanito Palo. Apparently they had some sharp disagreement, because Candido was heard to demand angrily "Why don't you heed my request? As it happened that Candido's daughter, Angeles, was in the river washing some clothes, and overheard the altercation, she became alarmed and hurriedly called Santiago de Roxas, who was then drilling an artesian well nearby together with Marcelino Araga and Jose Navarro. Resenting his daughter's act, Candido reprimanded her and chased her home with a piece of wood. At that moment Santiago de Roxas and Navarro arrived in time to hear the detonation of a firearm, the bullet whizzing by. They looked around but saw nobody. Then another shot rang out. This time Candido Catapang was hit in the abdomen. Forthwith Ildefonso Palo emerged from behind some big boulders, holding the pistol Exhibit A, even as Pedro Palo, armed with a bolo sallied forth to slash Candido Catapang" across the face. The victim fell down helpless; he was immediately brought to the Provincial Hospital, but he died on the way.

The foregoing is the firsthand account given in the Batangas court by Angeles Catapang, Santiago de Roxas and Jose Navarro. Angeles admittedly witnessed the whole affair. The defense implies her presence, and that of Santiago de Roxas to whom Ildefonso Palo surrendered the gun right after the killing, inasmuch as he was the barrio lieutenant.

The defense however insists that "the incident arose when one of the defendants demonstrated with the deceased while the latter (then under the influence of liquor) was beating his daughter, niece of said defendants with deadly weapons, and in the struggle that ensued the deceased was killed with his own weapon that was wrested from him by the defendant (Ildefonso)." Pedro, it is claimed, "was in no way concerned with that struggle".

According to its witnesses Juanito Palo, Ireneo Maristela, Ramon Banaag and the two defendants, when Candido was chasing his daughter with bolo in hand, Ildefonso arrived and told Candido to stop; but the latter, taking

offense at the interference, returned his bolo to the scabbard, drew his pistol and saying "I will kill you all" lunged at Ildefonso, who grabbed Candido's hand, managed to wrest the firearm and ran away pursued by Candido who meantime unsheathed his bolo. However as his escape was blocked by a fence and some animals, Ildefonso turned around and fire a warning shot. As Candido kept advancing, Ildefonso fired again, and the bullet hit its mark. But Candido continued advancing, so Ildefonso—incredible as it seems—"transferred the gun to his left hand", drew his own bolo and hacked Candido on the face, when the latter came within striking distance.[1]

The trial judge who saw the witnesses testify refused to believe the defendants' version, for seven reasons, fully explained in his decision under review. Upon examination of the expediente we find them to be well-founded. Most important is the improbability of such version.

"The Court does not believe" says the decision, "that the deceased would have attempted to kill Ildefonso and his brother Juanito just because they tried to prevent Candido from chastizing his own daughter. Nor, does the Court believe that, assuming it to be true that Candido wanted to attack Ildefonso he would have returned his bolo in its scabbard, and draw a pistol instead, considering that Ildefonso was not armed; nor, after Ildefonso had wrested the pistol from Candido, would Candido still pursue Ildefonso who was already in the possession of the pistol. To top it all, the Court considers it beyond comprehension that while Ildefonso was being allegedly pursued by Candido who refused to desist from his attack notwithstanding the fact that he was already fired at by a .45 caliber pistol, Ildefonso would seek to strengthen his position by ceasing to use the pistol, transferring the same to his left hand, and drawing a bolo instead, in order to defend himself."

It should be noted that the day after the shooting, Ildefonso Palo voluntarily swore before the Justice of the Peace of Taal, Batangas, the affidavit Exhibit C corroborating the evidence of the prosecution above set out. And, what is most significant, therein he admitted ownership of the unlicensed pistol which killed Candido Catapang.

Obviously in line with this admission, defendants tried to settle the case amicably by offering to pay P3,500.00 as indemnity to the heirs; but the deal failed to materialize. The defense presented no evidence that these efforts at settlement were made, not in acknowledgment of guilt, but to avoid the inconveniences of imprisonment or for other reasons consistent with defendants' innocence.[1] Consequently the offer of compromise was properly considered as material evidence against the defendants.

The court also considered—quite correctly—that whereas the story of the prosecution was supported by Santiago de Roxas and Jose Navarro who were not related to the deceased, the defendants' account rested upon the corroborative testimony of their brother Juanito Palo, his father-in-law Irineo Maristela and the uncle of Ildefonso's wife Ramon Banaag.

These remarks of course do not merely show preponderance of the prosecution's evidence; they mean that such evidence should be believed, because defendants' exculpation appears to be incredible.

Now then, does the State's proof establish beyond reasonable doubt the guilt of the accused? We are convinced that it does: there are disinterested eye-witnesses, there is an extrajudicial confession, and there is the corpus delicti; and the motive for the killing appeared to be the defendants' indignation at the deceased's zeal in upholding his brother's interest in the latter's property dispute with the Palos.

Murder was undoubtedly committed, qualified by treachery. It is said that voluntary surrender may mitigate defendants' offense. Although Ildefonso Palo handed the gun to the barrio lieutenant upon the latter's demand, there is no evidence that he willingly delivered himself to the authorities. On the contrary, Pedro Palo denied having voluntarily surrendered, alleging he had been taken from his house the following morning by some policemen. Anyway this mitigation is compensated by the aggravating circumstance of relationship, the deceased

being brother-in-law of the offenders (Art. 15 Revised Penal Code).[1]

Therefore in the absence of other modifying circumstances, life imprisonment was properly imposed upon these appellants.

In Criminal Case No. 1062 there is no question that Ildefonso Palo had no government permit to possess the firearm with which he downed Candido Catapang. Hence he violated sec. 2692 of the Administrative Code as amended by Republic Act No. 4; and the prison term specified in the appealed decision lies within the limits fixed by said statute.

Wherefore the judgment under review is affirmed in toto, with costs against appellants. So ordered.

Paras, C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Endencia, and Felix, JJ., concur.

[1] This was obviously to explain the gaping wound in the face— which according to the prosecution had been caused by Pedro.

[1] Rule 123 see. 9 Rules of Court; U. S. vs. Torres, 34 Phil. 994; People vs. Sope, 75 Phil. 810; Moran, Comments on the Rules of Court 1952 Ed. Vol. III p. 80.

[1] People vs. Mercado, 51 Phil. 99; People vs. Alisob, 69 Phil. 362

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